

**61.661 Member's account confidential -- Response to subpoenas.**

- (1) Each current, former, or retired member's account shall be administered in a confidential manner and specific data regarding a current, former, or retired member shall not be released for publication unless authorized by the member; however, the system may release account information to the employer or to other state and federal agencies as it deems necessary or in response to a lawful subpoena or order issued by a court of law. The current, former, or retired member's account shall be exempt from the provisions of KRS 171.410 to 171.990.
- (2) When a subpoena is served upon any employee of the Kentucky Retirement Systems, requiring production of any specific data regarding a current, former, or retired member, it is sufficient if the employee of the Kentucky Retirement Systems charged with the responsibility of being custodian of the original delivers within five (5) working days, by certified mail or by personal delivery, legible and durable copies of records, certified by the employee, or an affidavit stating the information required by the subpoena to the person specified in the subpoena. The production of documents or an affidavit shall be in lieu of any personal testimony of any employee of the Kentucky Retirement Systems unless, after the production of documents or affidavit, a separate subpoena is served upon the systems specifically directing the testimony of an employee of the systems. When a subpoena is served on any employee of the systems requiring the employee to give deposition for any purpose, in the absence of a court order requiring the deposition of a specific employee, the systems may designate an employee to be deposed upon the matter referred to in the subpoena.
- (3) The certification shall be signed before a notary public by the employee and shall include the full name of the member, the member's Social Security number and a legend substantially to the following effect: "The records are true and complete reproductions of the original or microfiched records which are housed in the retirement systems office. This certification is given in lieu of his or her personal appearance."
- (4) When an affidavit or copies of records are personally delivered, a receipt shall be presented to the person receiving the records for his signature and shall be immediately signed and returned to the person delivering the records. When an affidavit or copies of records are sent via certified mail, the receipt used by the postal authorities shall be sufficient to prove delivery and receipt of the affidavit or copies of records.
- (5) When the affidavit or copies of records are delivered to a party for use in deposition, they shall, after termination of the deposition, be delivered personally or by certified mail to the clerk of the court or other body before which the action or proceeding is pending. It shall be the responsibility of the party or attorney to transmit the receipt obtained to the employee of the Kentucky Retirement Systems charged with responsibility of being custodian of the original. Upon issuance of a final order terminating the case and after the normal retention period for court records expires, the affidavit or copies of records shall be permanently disposed of by the clerk in a manner that protects the confidentiality of the information contained therein.

- (6) Records of the Kentucky Retirement Systems that are susceptible to photostatic reproduction may be proved as to foundation, identity, and authenticity without any preliminary testimony, by use of legible and durable copies, certified in accordance with the provisions of this section.

**Effective:** July 15, 1996

**History:** Amended 1996 Ky. Acts ch. 167, sec. 18, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 485, sec. 22, effective July 15, 1994. Amended 1992 Ky. Acts ch. 240, sec. 42, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 346, sec. 9, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 349, sec. 44, effective July 15, 1988. -- Created 1972 Ky. Acts ch. 116, sec. 52.